

AMENDED IN ASSEMBLY AUGUST 29, 2005

AMENDED IN ASSEMBLY JUNE 28, 2005

AMENDED IN SENATE MAY 25, 2005

**SENATE BILL**

**No. 536**

**Introduced by Senator Bowen**

February 18, 2005

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~~An act to amend Sections 6066 and 6226 of the Revenue and Taxation Code, relating to taxation. An act to amend Section 25354.5 of the Health and Safety Code, relating to hazardous substances, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 536, as amended, Bowen. ~~Sales and use tax; registration; agents for retailers and sellers. Illegal Drug Lab Cleanup Account; methamphetamine.~~

*Existing law requires the Department of Toxic Substances Control to take removal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the unlawful manufacture of controlled substances, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose. Existing law, the Budget Act of 2005, appropriates \$2,073,000 from the Illegal Drug Lab Cleanup Account to the Department of Toxic Substances Control.*

*Existing law prohibits a state agency from issuing, utilizing, or enforcing any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, that is a regulation, unless the guideline, criterion, bulletin, manual,*

*instruction, order, standard of general application, or other rule is adopted as a regulation pursuant to the Administrative Procedure Act.*

*This bill would require the department to develop sampling and analytical methods for the collection of methamphetamine residue, and by October 1, 2007, to adopt a health-based target remediation standard for methamphetamine. The bill would require the department, by October 1, 2008, to the extent that funding is available, to adopt health-based target remediation standards for iodine, methyl iodide, and phosphine, and would authorize the department to develop additional health-based target remediation standards. The bill would require the department to adopt, by October 1, 2009, investigation and cleanup procedures for use in the remediation of sites contaminated by the illegal manufacturing of methamphetamine. This bill would exclude the development of those methods, standards, and procedures from the requirements of the Administrative Procedure Act with regard to the adoption of regulations.*

*The bill would authorize the department to expend the funds in the Illegal Drug Lab Cleanup Account to develop those standards and procedures, including funding the interagency agreement, thereby making an appropriation by changing the purpose for which funds are appropriated from that account.*

*The bill would become operative only if AB 1078 is enacted and becomes effective on or before January 1, 2006.*

~~The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. Existing law requires every person who desires to engage in or conduct business as a seller to file with the board an application for a permit for each place of business, as specified. Existing law also requires every retailer selling tangible personal property, as specified, to register with, and give specific information to, the board.~~

~~This bill would provide that a seller or retailer may authorize a representative to file an application or register with the board, as specified.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~<sup>yes</sup>. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION. 1. Section 25354.5 of the Health and Safety Code  
2     is amended to read:

3     25354.5. (a) ~~Any~~ A state or local law enforcement officer or  
4     investigator or other law enforcement agency employee who, in  
5     the course of an official investigation or enforcement action  
6     regarding the manufacture of any illegal controlled substance,  
7     comes in contact with, or is aware of, the presence of a substance  
8     that the person suspects is a hazardous substance at a site where  
9     an illegal controlled substance is or was manufactured, shall  
10    notify the department for the purpose of taking removal action, as  
11    necessary, to prevent, minimize, or mitigate damage that might  
12    otherwise result from the release or threatened release of the  
13    hazardous substance, except for samples required under Section  
14    11479.5 to be kept for evidentiary purposes.

15    (b) (1) Notwithstanding any other provision of law, upon  
16    receipt of a notification pursuant to subdivision (a), the  
17    department shall take removal action, as necessary, with respect  
18    to any hazardous substance that is an illegal controlled substance,  
19    a precursor of a controlled substance, a material intended to be  
20    used in the unlawful manufacture of a controlled substance and  
21    any container for such a material, a waste material from the  
22    unlawful manufacture of a controlled substance, or any other  
23    item contaminated with a hazardous substance used or intended  
24    to be used in the manufacture of a controlled substance. The  
25    department may expend funds appropriated from the Illegal Drug  
26    Lab Cleanup Account created pursuant to subdivision ~~(e)~~ (f) to  
27    pay the costs of removal actions required by this section. The  
28    department may enter into oral contracts, not to exceed ten  
29    thousand dollars (\$10,000) in obligation, when, in the judgment  
30    of the department, immediate corrective action to a hazardous  
31    substance subject to this section is necessary to remedy or  
32    prevent an emergency.

33    (2) The department shall, as soon as the information is  
34    available, report the location of any removal action that will be  
35    carried out pursuant to paragraph (1), and the time that the  
36    removal action will be carried out, to the local environmental  
37    health officer within whose jurisdiction the removal action will

1 take place, if the local environmental officer does both of the  
2 following:

3 (A) Requests, in writing, that the department report this  
4 information to the local environmental health officer.

5 (B) Provides the department with a single 24-hour telephone  
6 number to which the information can be reported.

7 (c) (1) For purposes of Chapter 6.5 (commencing with  
8 Section 25100) or this chapter, any person who is found to have  
9 operated a site for the purpose of manufacturing an illegal  
10 controlled substance or a precursor of an illegal controlled  
11 substance is the generator of any hazardous substance at, or  
12 released from, the site that is subject to removal action pursuant  
13 to this section.

14 (2) During the removal action, for purposes of complying with  
15 the manifest requirements in Section 25160, the department, the  
16 county health department, the local environmental health officer,  
17 or their designee may sign the hazardous waste manifest as the  
18 generator of the hazardous waste. In carrying out that action, the  
19 department, the county health department, the local  
20 environmental health officer, or their designee shall be  
21 considered to have acted in furtherance of their statutory  
22 responsibilities to protect the public health and safety and the  
23 environment from the release, or threatened release, of hazardous  
24 substances, and the department, the county health department, the  
25 local environmental health officer, or their designee are not  
26 responsible parties for the release or threatened release of the  
27 hazardous substances.

28 (3) The officer, investigator, or agency employee specified in  
29 subdivision (a) is not a responsible party for the release or  
30 threatened release of any hazardous substances at, or released  
31 from, the site.

32 (d) ~~The~~ *Except as provided in subdivision (e), the department*  
33 *may adopt regulations to implement this section in consultation*  
34 *with appropriate law enforcement and local environmental*  
35 *agencies.*

36 (e) (1) *The department shall develop sampling and analytical*  
37 *methods for the collection of methamphetamine residue.*

38 (2) *On or before October 1, 2007, the department, using*  
39 *guidance developed by the Office of Environmental Health*

1 *Hazard Assessment, shall develop a health-based target*  
2 *remediation standard for methamphetamine.*

3 *(3) On or before October 1, 2008, the department shall, to the*  
4 *extent funding is available, develop health-based target*  
5 *remediation standards for iodine, methyl iodide, and phosphine.*

6 *(4) To the extent that funding is available, the department,*  
7 *using guidance developed by the Office of Environmental Health*  
8 *Hazard Assessment, may develop additional health-based target*  
9 *remediation standards for additional precursors and byproducts*  
10 *of methamphetamine.*

11 *(5) On or before October 1, 2009, the department shall adopt*  
12 *investigation and cleanup procedures for use in the remediation*  
13 *of sites contaminated by the illegal manufacturing of*  
14 *methamphetamine. The procedures shall assure that*  
15 *contamination by the illegal manufacturing of methamphetamine*  
16 *can be remediated to meet the standards adopted pursuant to*  
17 *paragraphs (2) to (4), inclusive, to protect the health and safety*  
18 *of all future occupants of the site.*

19 *(6) Notwithstanding any other provision of law, including, but*  
20 *not limited to, Section 11340.5 of the Government Code, the*  
21 *development of methods and standards and the adoption of*  
22 *procedures pursuant to this subdivision are not subject to*  
23 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
24 *Division 3 of Title 2 of the Government Code, and those methods,*  
25 *standards, and procedures shall not be considered regulations*  
26 *for purposes of that chapter.*

27 ~~(e)~~

28 *(f) The Illegal Drug Lab Cleanup Account is hereby created in*  
29 *the General Fund and the department may expend any money in*  
30 *the account, upon appropriation by the Legislature, to carry out*  
31 *the removal actions required by this section and to implement*  
32 *subdivision (e), including, but not limited to, funding any*  
33 *interagency agreement entered into with the Office of*  
34 *Environmental Health Hazard Assessment to provide guidance*  
35 *services. The account shall be funded by moneys appropriated*  
36 *directly from the General Fund.*

37 ~~(f)~~

38 *(g) The responsibilities assigned to the department by this*  
39 *section apply only to the extent that sufficient funding is made*  
40 *available for that purpose.*

1     *SEC. 2. This act shall become operative only if Assembly Bill*  
2     *1078 of the 2005-06 Regular Session of the Legislature is*  
3     *enacted and becomes effective on or before January 1, 2006.*

4     ~~SECTION 1. Section 6066 of the Revenue and Taxation~~  
5     ~~Code is amended to read:~~

6     ~~6066. (a) Every person desiring to engage in or conduct~~  
7     ~~business as a seller within this state shall file with the board an~~  
8     ~~application for a permit for each place of business. Every~~  
9     ~~application for a permit shall be made upon a form prescribed by~~  
10    ~~the board and shall set forth the name under which the applicant~~  
11    ~~transacts or intends to transact business, the location of his or her~~  
12    ~~place or places of business, and other information as the board~~  
13    ~~may require. An application for a permit shall be authenticated in~~  
14    ~~a form or pursuant to methods as may be prescribed by the board.~~  
15    ~~The application shall state that the applicant will actively engage~~  
16    ~~in or conduct business as a seller of tangible personal property.~~

17    ~~(b) For the purposes of subdivision (a), a person desiring to~~  
18    ~~engage in or conduct business as a seller within this state may~~  
19    ~~authorize a representative to file the application required~~  
20    ~~pursuant to this section. The authorization shall be made in~~  
21    ~~writing and provided to the board.~~

22    ~~(c) An application filed pursuant to this section may be filed~~  
23    ~~using electronic media as prescribed by the board.~~

24    ~~(d) Electronic media includes, but is not limited to, computer~~  
25    ~~modem, magnetic media, optical disk, facsimile machine, or~~  
26    ~~telephone.~~

27    ~~SEC. 2. Section 6226 of the Revenue and Taxation Code is~~  
28    ~~amended to read:~~

29    ~~6226. (a) Every retailer selling tangible personal property for~~  
30    ~~storage, use, or other consumption in this state shall register with~~  
31    ~~the board and give the name and address of all agents operating~~  
32    ~~in this state, the location of all distribution or sales houses or~~  
33    ~~offices or other places of business in this state, and any other~~  
34    ~~information as the board may require.~~

35    ~~(b) For purposes of subdivision (a), the retailer may authorize~~  
36    ~~a representative to register on his or her behalf and to furnish to~~  
37    ~~the board the information required. The authorization shall be~~  
38    ~~made in writing and provided to the board.~~